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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,000	03/04/2002	Robert Degen	20375-008700	6763

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EXAMINER

SHERR, CRISTINA O

ART UNIT PAPER NUMBER

3621

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/091,000	Applicant(s) DEGEN ET AL.	
	Examiner Cristina Owen Sherr	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-14, 16-19 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-14, 16-19, 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to applicant's amendment filed January 9, 2006. Claims 5, 15, and 20 have been canceled. Claims 1, 4, 6-9, 23 and 27 have been amended. Claims 1-4, 6-14, 16-19, 21-27 are pending in this case.

Response to Arguments

2. Applicant's arguments with respect to section 112 rejection of claims 1, 23 and 27 have been noted and are persuasive with respect to the newly amended version of said claims. Thus the section 112 rejection of claims 1, 23 and 27 are hereby withdrawn.

3. Applicant's arguments with respect to the section 101 rejections of claims 1, 16, 17, 23, 24, and 27 are noted and are persuasive in light of Ex Parte Lundgren, (76 USPQ2d 1385 (BPAI 2005)). The section 101 rejections of claims 1, 16, 17, 23, 24, and 27 are hereby withdrawn.

4. Applicant's arguments with respect to the section 103 rejection of claims 1-4, 6-14, 16-19, 21-27 filed January 9, 2006 have been fully considered but they are not persuasive.

5. Applicant argues, that nothing in Ginter relates to the transfers of electronic value. Generally, Ginter refers to the transfer of digital items, and money in this context and in the context of the instant application is merely one more digital item which may be transferred as part of a variety of transactions. See, e.g., abstract, col 41 n 55-col 5 ln 8, and therefore, col 230 ln 43-54, col 313 ln 9-21, col 318 ln 30-58, while not specifically referring to money are nevertheless referring to the distribution of digital or electronic

items which have some value, of which money is one example. Thus the latter passages refer to patterns of usage as in the instant application and to digital items of value of which money is one example as in the instant application.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 6-14, 16-19, 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ginter et al (US 5,892,900).

8. As the claims are currently articulated, they read on any electronic transaction method in which transactions are grouped or batched according to various characteristics in order to differentiate fraudulent from nonfraudulent transaction. Ginter (see, e.g., col 16 ln 65 – col 17 ln 20; col 154 ln 20-40). It would be obvious to one of ordinary skill in the art to adapt the teachings of Ginter by using different appropriate criteria to group transactions in order to more effectively guard against fraud.

9. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part

of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Tetro et al (US 6,095,413) disclose a system and method for enhanced fraud detection in automated electronic credit card processing.

12. Murad et al (US 6,526,389) disclose telecommunications system for generating a three-level customer behavior profile and for detecting deviation from the profile to identify fraud.

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-

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272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

COS
04/01/06



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